

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #218
09/16/13**

MEMBERS PRESENT: Chairman Robert Duval, Vice-Chairman David Collins,
Deborah Chabot, Raymond Donald, Debra Hale,
Carmela Amato-Wierda

MEMBERS NOT PRESENT: Ryan Bielagus, Georgia Murray, William Smagula

NHDES – ARD PERSONNEL: Craig Wright, Michele Roberge, Gary Milbury,
Joseph Fontaine

OTHERS PRESENT: Anne Keach, Paula Scott

Call to Order:

Chairman Duval called Meeting #218 of the Air Resources Council (ARC) to order at 9:10 a.m. on Monday, September 16, 2013. Chairman Duval announced that a quorum of the ARC was present.

Approval of Minutes:

Deborah Chabot entered a motion to accept the minutes of meeting #217. Raymond Donald seconded the motion. All were in favor. The motion carried. The minutes of ARC meeting #217 were approved and accepted by the ARC.

Division Activities & Legislative Update:

Chairman Duval introduced Craig Wright, Director of the Air Resources Division (ARD). Mr. Wright briefly updated members of the ARC on legislative and budgetary issues relative to the Air Resources Division.

Legislation

Mr. Wright reported that the Air Resources Division (ARD) is developing potential legislation for the upcoming 2014 session regarding enforcement of nuisance woodsmoke. The ARD is working with the Department of Resources and Economic Development and the American Lung Association to develop draft legislation allowing local authorities the ability to enforce the provision.

Regional Greenhouse Gas Initiative (RGGI) Auction Results

Mr. Wright reported that forty-two bidders participated in the offering of CO₂ allowances for the current control period in the RGGI Auction held on September 6, 2013. Bids were submitted to purchase 2.0 times the available supply of allowances, resulting in a clearing price of \$2.67 per ton. Compliance entities or their affiliates purchased 53 percent of the allowances in the offering. Mr. Wright added that the State of New Hampshire grossed ~ \$4.4 Million in proceeds from the RGGI auction. The next RGGI auction is scheduled for December 4, 2013.

Permitting

Brox Industries, Inc., Hudson

A Public Hearing was held on August 7, 2013 at the Rodgers memorial Library to receive public comment. The Permit to Operate was issued on August 29, 2013.

Elliot, Maine – PSNH, Schiller Station

Mr. Wright reported that Elliot, ME filed a 126 Petition with the United States Environmental Protection Agency (EPA) alleging violations of the National Air Quality Standards. The EPA has sixty days to respond to the petition.

Mr. Wright added that a Third Party, the Sierra Club, supplied the modeling analysis conducted on Peirce Island.

Deborah Chabot asked if there have been increase health incidences reported. Mr. Wright responded that he has not seen any data of that nature. Ms. Chabot asked what triggered the petition. Mr. Wright stated that Schiller Station was originally built in the 1950s as an oil plant, and was later converted to coal. He added that Schiller Station is subject to Mercury and Air Toxics Standards testing in April 2015.

Annual Work Plan

Director Wright provided members of the ARC with copies of EPA's NHDES 2014 PPA Priorities and Commitments List which includes over forty objectives for the Air Resources Division programs to accomplish including, but not limited to:

- Participating in EPA's Climate Adaptation Conference
- Greenhouse Gas actions in the Municipal and Industrial Sectors
- Participate in EPA's AIRNOW program
- Submitting designation recommendations for the 2012 PM2.5 NAAQS by December 2013.
- Process conformity determinations for CO maintenance areas
- Submit RACT SIP for 2008 Ozone Standard
- Propose the Regional Haze Interim Progress Report SIP revision to meet January 29, 2015 deadline
- Ensuring Title V permits and permit modifications issued with eighteen months of receiving permit application
- Ensure that 78 percent of major NSR permits are issued within twelve months of receiving permit application.
- Submit Annual Air Monitoring Network Plan by July 1, 2014.
- Operate EPA-approved network (SLAMS, PAMS, PM) and submit Annual Air Quality Data Certification by May 1, 2014
- Participate in the NH Asthma Collaborative to revise NH's strategies (Healthy Schools, Anti-Idling policies)

Chairman Duval requested that an overview of the NHDES Compliance Assurance Response Policy (CARP) be presented at the next meeting of the ARC.

Chairman Duval asked Director Wright to provided members of the ARC with an overview of the Permitting Process with particular focus on Title V Permits at a future meeting of the ARC.

Director Wright agreed to arrange for the presentations before the ARC.

Status of Appeals

Paula Scott, Appeals Clerk presented the status of appeals before the ARC as follows:

Docket No. 11-10 ARC – Public Service of New Hampshire (PSNH), regarding the NHDES Final Determination of Baseline Mercury Input. The ARC adopted the draft decision and issued the Final Decision on December 17, 2012. On January 15, 2013, the ARC received the State's Request for Reconsideration and Clarification. On February 1, 2013, the ARC received the Objection to State's

Request for Reconsideration and Clarification. The ARC received the State's Assent to PSNH Request to Defer Decision on Reconsideration and State's Motion to Strike. On February 12, 2013, the ARC received PSNH's Objection to State's Motion to Strike. PSNH filed their Status Report on February 27, 2013. On March 4, 2013, a letter was issued to the parties regarding the hearing officer's rulings. The status report was due by April 1, 2013. On March 29, 2013, the ARC received PSNH's status report. On April 1, 2013 the ARC granted the requested relief to submit status report by May 1, 2013. On April 29, 2013, the ARC received PSNH's status report. On May 1, 2013, the ARC granted the request to submit the status report by June 1, 2013. The ARC received PSNH's status report on June 11, 2013. On June 13, 2013, the ARC granted the request to submit the status report by September 1, 2013.

William Smagula stated that the parties have made good progress and are finishing details with the ARD. Mr. Smagula expects the status report will be forthcoming on September 1, 2013.

Docket No. 12-11 ARC – Katherine Lajoie, Rebecca MacKenzie, et al. regarding the September 11, 2012 granting of the Title V Air Permit to Operate for Wheelabrator Claremont, Application #09-005. A Notice of Appeal was received on October 11, 2012. On October 18, 2012, a notice of insufficient filing was sent to the Appellants. The ARC received an addendum to the Notice of Appeal on November 15, 2012. The ARC sent a receipt of the revised Notice of Appeal. The ARC accepted the Appeal on December 17, 2012, and a Hearing Officer will be appointed by the Office of the Attorney General. The Notice of Appeal Acceptance was sent to the parties on December 17, 2012. On January 8, 2013, Evan Mulholland, Assistant Attorney General, filed an Appearance for the NHDES. On January 11, 2013, the ARC received the Appearance of Gregory Smith, and Jarret Duncan of McLane, Graf, Raulerson and Middleton P.A., for Wheelabrator Claremont Company L.P. On January 23, 2013, a notice was issued of the Pre-Hearing Conference scheduled for February 12, 2013 at 1:00 p.m. On February 7, 2013, the ARC received Objection to Motion to Dismiss and Request to Stay. The ARC issued the Pre-Hearing Order on February 12, 2013 with a hearing scheduled for May 20, 2013, at 10:00 a.m. Wheelabrator's Reply to Appellant's Objection was received on February 19, 2013. On February 25, 2013, the ARC received the Appellant's Response to Wheelabrator's Reply to Appellant's Objection. On March 12, 2013, the ARC received a copy of the Department of Environmental Services' file and fifteen CDs of the file for ARC members. The hearing officer sent a draft decision to the ARC for review on March 22, 2013. On April 2, 2013 the order on the Motion to Dismiss was issued. On April 18, 2013 the ARC received a copy of the request for information from Appellants to Wheelabrator's counsel and to Evan Mulholland, counsel for the NHDES. On April 22, 2013, the ARC received a copy of Atty. Smith's response to the Request for Information. On April 22, 2013, the ARC received the Appellants' Motion to Amend. On April 26, 2013 received the Withdrawal of Appearance for Jarrett Duncan and Appearance for Carol Holahan. On April 25, 2013, the Public Notice of Title V Appeal Hearing was published in the Union Leader newspaper. On April 26, 2013, the ARC received a Joint Objection to Motion to Amend Notice of Appeal. On April 29, 2013, the ARC received the Appellants' Response to Joint Objection to Motion to Amend Notice of Appeal and Appellants' Motion to Compel. On May 2, 2013 the ARC received Wheelabrator's Objection to Motion to Compel and Reply to Appellants' Response to Joint Objection to Motion to Amend Notice of Appeal. On May 3, 2013, the Hearing Officer issued an Order on Motion to Amend; which was granted. On May 3, 2013, the Hearing Officer issued an Order on the Motion to Compel; which was granted. On May 6, the ARC received the NHDES' Objection to Motion to Compel. On May 8, 2013, the ARC received Wheelabrator's Motion for Reconsideration or Clarification of Order Granting Appellants' Motion to Amend Notice of Appeal. On May 10, 2013, the ARC received a Motion to Enforce Hearing Officer's Ruling. On May 13, 2013, the ARC received Wheelabrator's, the NHDES' and Appellants' Witness and Exhibit Lists. On May 15, 2013, the Hearing Officer issued an Order on Appellants' Motion to Enforce Hearing Officer's Ruling and Order on Wheelabrator's Motion for Reconsideration or Clarification of Order Granting Appellants' Motion to Amend Notice of Appeal. On May 20, 2013 a hearing on the matter was held and recessed at 12:15 p.m., to resume on June 17, 2013 at 9:30 a.m. On June 5, 2013 the

ARC received the Appellants' Response to Wheelabrator's Request for Information. On June 10, 2013 the ARC received Wheelabrator's Objection and Motion to Strike Exhibit A16 File Out of Order by the Appellants. On June 13, 2013, the ARC issued a ruling on the Objection and Motion to Strike. On June 14, 2013, the ARC received an Objection to Appellants' Request for Information. A continued hearing on the matter was held on August 12, 2013. The hearing will resume on September 11, 2013 at 11:00 a.m. On August 20, 2013, the ARC received the Appellant's Submittal of missing data from Exhibit A4. A hearing on the matter will resume on October 21, 2013 following the regular meeting of the ARC at 10:00 a.m.

Docket No. 13-4 ARC – Winmill Equipment Co., Inc. regarding Administrative Order No. 13-009 ARD issued on May 30, 2013. The ARC received the Notice of Appeal on July 1, 2013. On July 2, 2013, the ARC issued an insufficient appeal letter. On July 15, 2013, the ARC received a revised Notice of Appeal. On July 22, 2013, the ARC issued a receipt of the Revised Appeal. On August 19, 2013, the ARC received a Notice of Appearance from Kerry Barnsley for the NHDES. On September 13, 2013, the ARC issued a Notice of Pre-hearing Conference scheduled for October 8, 2013 at 4:00 p.m.

New Business

Chairman Duval reminded members of the ARC whose terms are expiring to contact Jen Kuzma of the Governor's office if they are interested in re-appointment to serve on the ARC. He added that two vacancies remain on the ARC representing the Recreation and Manufacturing sectors. Chairman Duval asked members to refer individual interested in serving on the ARC to contact the Governor's Office as well.

Other Business

Chairman Duval set the next meeting of the Air Resources Council to be held on October 21, 2013.

Public Commentary

No public comments were received by the ARC.

Adjourn

Having no further business to discuss, Raymond Donald entered a motion to adjourn. Carmela Amato-Wierda seconded the motion. All were in favor. Meeting #218 of the Air Resources Council adjourned at 10:00 a.m. on September 16, 2013.